

APR 23 2001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DEPT REF
ROOM - 307
5/17/01
#8

In re PATENT APPLICATION
of FORTE

Group Art Unit: 1771

Appln. No: 09/374,117

Examiner: L. Roche

Filed: August 16, 1999

Title: MULTILAYER BREATHABLE FILM AND A METHOD FOR MAKING A MULTILAYER
BREATHABLE FILM

Date: April 23, 2001

* * * * *

REQUEST FOR REFUND OF OVERPAYMENT

Applicant hereby requests a refund for the overpayment of excess claims fee paid on August 16, 1999. A copy of the PAT-108 showing the overpayment is attached.

The total effective claims in this application are four (4). Claims 1-25 and 30-31 were cancelled in the Preliminary Amendment filed concurrently with the divisional application on August 16, 1999. Total effective claims listed on PAT-108, however, were 31, resulting in a charge of \$198.00 for 11 excess claims. Applicant submits that this payment was in error, and requests a refund to Deposit Account 03-3975, Matter No. 40370/251091.

If the Examiner has any questions about this Request, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Pillsbury Winthrop LLP

G. Brummett

Gregory P. Brummett

Reg. No 41646

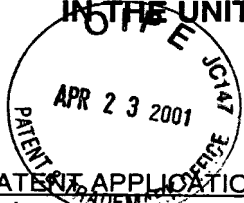
Tel. No. (202) 861-3683

Fax No. (202) 822-0944

GPB:ml
1100 New York Avenue, NW
Ninth Floor
Washington, DC 20005-3918
(202) 861-3000



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
REQUEST FOR FILING
(RULE 53(b)(1))



For Design or Utility Applications

(DO NOT USE FOR CIPs)

Rule 53(b)(1) PATENT APPLICATION:

- ☐ Continuation) application under 37 CFR 1.53(b)(1)
☒ Divisional)

of pending prior application of

Group Art Unit: 1306

Examiner: KUHNS

Inventor(s): FORTE

Parent Appln. No.:

08

690,063

Series Code ↑

↑ Serial No.

Atty. Dkt. PM 251091

DKT95-DIV

New M#

Client Ref

Parent Filed: July 31, 1996

This Case Filed:

Title: MULTILAYER BREATHABLE FILM..BREATHABLE FILM

Date: August 16, 1999

Asst. Commissioner of Patents
Washington, DC 20231

(Parent Matter No. 217460)

Sir:

To effect the above-requested filing today:

1. **Attached** is a copy (**which must be filed**) of this application, including:

- ☒ Abstract
☒ Specification and claims (65 pages) (**must be attached**)
☒ Drawings (**must be attached if originally filed**): 4 sheet(s)/set: ☒ 1 set informal;
☐ Formal of size ☐ A4 ☐ 11"

1A. Always X one box, only:

- (1) ☒ Signed declaration or oath as originally filed in prior application **attached**
(2) ☐ NO declaration or fee is enclosed; therefore, this is a filing under Rule 53(f).

2. ☐ This application is hereby filed by less than all of the inventors named in the prior application. Petition is hereby made requesting deletion as inventor(s) of the following who is/are **not** inventor(s) of the invention being claimed in this application:

- | | |
|----------|-----------|
| 1. _____ | 2. _____ |
| 3. _____ | 4. _____ |
| 5. _____ | 6. _____ |
| 7. _____ | 8. _____ |
| 9. _____ | 10. _____ |

3. The entire disclosure of the prior application is considered as being part of the disclosure of the accompanying application and is hereby incorporated therein by reference thereto.

4. ☐ Priority is claimed under 35 U.S.C. 119/365 based on filing in _____ of _____ (country)
- | | <u>Application No.</u> | <u>Filing Date</u> | | <u>Application No.</u> | <u>Filing Date</u> |
|-----|------------------------|--------------------|-----|------------------------|--------------------|
| (1) | _____ | _____ | (4) | _____ | _____ |
| (2) | _____ | _____ | (5) | _____ | _____ |
| (3) | _____ | _____ | (6) | _____ | _____ |
- a. ☐ _____ (No.) Certified copy/copies attached.
- b. ☐ Certified copy/copies previously filed on _____ in _____ U.S. Application No. _____ / _____, filed on _____ series code ↑ serial no.
- c. ☐ Certified copy/copies filed during International stage of PCT/ _____ / _____
4. (a) ☐ Domestic priority is claimed from PCT/ _____ / _____, filed _____
- (b) ☒ Benefit is claimed of Provisional Application No. 60/001,818, filed August 1, 1995.
5. ☒ Prior application is assigned to Kimberly-Clark Worldwide, Inc., filed April 1, 1999
- by assignment recorded April 6, 1999 (Date) Reel 9858 Frame 0004.
6. ☒ Attached is the following number of Assignments (including original and all later successive ones by different assignors): 2 and respective new Cover Sheets. (Do **NOT** file old cover sheets.)
- (Assignments in parent **must be refiled** with new Cover Sheets in this continuing application if you want it/them recorded against the continuing application.)
- Please return the recorded Assignment to the undersigned.
7. ☒ The power of attorney in the prior application is to Pillsbury Madison & Sutro, Paul N. Kokulis Reg. No. 16,773
- (Name and Reg. No.)
- whose current address is as in item 8 below.
- a. ☒ Recognize as associate attorney Gregory P. Brummett, Reg. No. 41,646
- (Name, Reg. No. and Address)
8. **Address all future communications to Intellectual Property Group of Pillsbury Madison & Sutro LLP, Ninth Floor, East Tower 1100 New York Avenue, N.W., Washington, D.C. 20005-3918**
9. ☒ **Amend the specification** by inserting before the first line the sentence:--This is a
- ☐ continuation ☒ division of Application No. 08/690,063, filed July 31, 1996
- series code ↑ serial no.
9. (a) ☒ **Amend the specification** by inserting before the first line: --This application claims the benefit of Provisional Application No. 60/001,818, filed August 1, 1995.--
10. ☐ It has been recently determined that this new continuing application is entitled to small entity status. Hence:
- (No.) Verified Statement(s) establishing "small entity" status under Rules 9 & 27 were/are:
- ☐ filed in above prior application (and hence applicable hereto)
- ☐ attached.
11. Petition to extend the life of the above prior application to at least the date hereof
- (one box) ☐ is being concurrently filed in that prior application (Use Form PAT-111).
- (must be) ☐ was previously filed in that prior application (Check length of prior extension).
- (X'd) ☒ is not necessary for copendency (Double check before X'ing this box).

12. ☒ **INFORMATION DISCLOSURE STATEMENT:** Attached is Form PTO-1449 listing all of the documents cited by Applicant and the PTO in the parent application(s) relied upon under 35 USC 120 and referenced in item 9 above. Per Rule 98(d) copies of those documents are not required now. Please consider those documents and advise that they have been considered in this new application as by returning a copy of the enclosed Form PTO-1449 with the Examiner's initials in the left column per MPEP 609. .
13. ☐ Attached is a Rule 103(a) Petition to Suspend Action.
14. ☐ **PRELIMINARY AMENDMENT to be entered before fee calculation:** (Do not make amendments here except for correction of improper multiple dependencies or cancellation of whole claims or multiple dependencies for purpose of reducing the filing fee per MPEP §§ 506 and 607; do not cancel all claims).

FILING FEE

THE FOLLOWING FILING FEE IS BASED ON

-->-->-->CLAIMS AS FILED AND CHANGED BY PRELIMINARY AMENDMENT IN ITEM 14<--<--<--<

NOTE: If box 1A2 is X'd, do not pay fees,
but leave lines 15-22 and 27-32 blank.

				Large/Small Entity		Fee Code
15. Basic Filing Fee				Design Application	\$310/\$155	106/26
16. Basic Filing Fee				Not Design Application	\$760/\$380	101/201
17. Total Effective Claims	31	minus 20 =	11	x \$18/\$9	+198	103/203
18. Independent Claims	4	minus 3 =	1	x \$78/\$39	+78	102/202
19. If <u>any proper</u> multiple dependent claim (ignore improper) is present,				\$260/\$130	+	104/204
20. Subtotal =					\$1036	
21. If "petition" box 13 above is X'd, add petition fee.				\$130	+	122
21A. If box 6 above is X'd, add Assignment recording fee				\$40	+80	581
22. TOTAL FILING FEE ATTACHED =					\$1116	

(carry forward to Item 31)

23. ☐ ATTACHED:
24. ☒ Preliminary Amendment attached (to be entered after assigning Appln. No.)
25. ☐ The following PRELIMINARY AMENDMENT is to be entered after assigning Appln. No.:

26.

**ADDITIONAL FEE CALCULATION FOR
PRELIMINARY AMENDMENT
PER BOXES 24/25**

	Claims remaining after amendment	Highest number previously paid for	Present Extra	Large/Small Entity	Additional Fee	File Code
27.	Total Effective Claims	*4	minus **	31 = 0 x \$18/\$9 =	\$ 0	(103/203)
28.	Independent Claims	*1	minus ***	3 = 0 x \$78/\$39 =	+ 0	(102/202)
29.	If amendment enters proper multiple dependent claim(s) into this application for the first time, add (per application)\$260/\$130				+ 0	(104/204)
30.	ADDITIONAL FEE				\$ 0	
31.	plus FEE from item 22 on page 3				+ 1116	
32.	TOTAL FEE ATTACHED				\$ 1116	
33.	*If the entry in this space is less than the entry in the next space, the "Present Extra" result is "0"					
34.	**If the "Highest number previously paid for" (see item 17 above) is less than 20, write "20" in this space					
35.	If the "Highest number previously paid for" (see item 18 above) is less than 3, write "3" in this space					

Our Deposit Account No. 03-3975

Our Order No.	60707	251091
	C#	M#

CHARGE STATEMENT: Upon the filing of a Declaration pursuant to Rule 60(b) or 60(d), the Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any missing or insufficient fee(s) filed, or asserted to be filed, or which should have been filed herewith or concerning any paper filed hereafter, and which may be required under Rules 16-18 (missing or insufficient fee only) now or hereafter relative to this application and the resulting Official document under Rule 20, or credit any overpayment, to our Account/Order Nos. shown above for which purpose a duplicate copy of this sheet is attached.

This CHARGE STATEMENT does not authorize charge of the issue fee until/unless an issue fee transmittal form is filed.

**Pillsbury Madison & Sutro LLP
Intellectual Property Group**

1100 New York Avenue, N.W.
Ninth Floor, East Tower
Washington, D.C. 20005-3918
Tel: (202) 861-3000
GPB/blq
Atty./Sec.

By Atty: Gregory P. BrummettReg. No. 41,646

Sig: _____

Fax: (202) 822-0944
Tel: (202) 861-3683

NOTE No. 1: File this Request in duplicate with 2 postcard receipts (PAT-103) & attachments

NOTE No. 2: Is extension in parent necessary for copendency? **DOUBLE CHECK** Item 11 above.